Asserting Declarations: Supporting Indigenous Customary Governance in Canada Through Intangible Cultural Heritage.

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ABSTRACT

This article discuses traditional resource governance on Indigenous cultural landscapes. Applying the framework of intangible cultural heritage through this context will elaborate how it can serve as a mechanism for supporting Indigenous territoriality and rights in Canada. illustrated through examples of three cultural landscapes differently "protected", this paper elaborates on how customary governance, an element of indigenous cultural heritage, is the underlying measure used to assert land-rights and sustainable livelihoods. demonstrating that continued land -use and customary governance characterize local values, knowledges, practices and traditions as well as land management techniques, the article concludes whit a discussion of the politics of recognition of these indigenous cultural heritage elements.

Key words: Indigenous; Canada; Customary Governance; Territoriality; Recognition.

Declaraciones Asertivas y Paisajes Culturales Indígenas: Apoyo a la Gobernanza Tradicional Indígena en Canadá a través del Patrimonio Cultural inmaterial

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RESUMEN

Este artículo analiza los recursos de gobernanza tradicional que poseen los paisajes culturales indígenas desde el marco del patrimonio cultural inmaterial (PCI) y como desde su perspectiva, puede fungir como mecanismo estratégico de apoyo a la territorialidad y los derechos indígenas en Canadá. Ilustrado a través de tres paisajes culturales "protegidos" como ejemplos diferentes. Este trabajo explica cómo el papel de los estilos tradicionales de la gobernanza (usos y costumbres), son medida subyacente que permite afirmar los derechos sobre la tierra y los medios de vida sostenibles, por lo que constituye un elemento sustantivo de afirmación del patrimonio cultural indígena. El artículo demuestra que el uso ininterrumpido de la tierra así como la forma tradicional de gobernarse, es lo que permite caracterizar los valores, conocimientos, prácticas y tradiciones locales, así como las técnicas de gestión de la tierra y concluye con una discusión que aborda las políticas de reconocimiento de todos estos elementos como un auténtico patrimonio cultural indígena.

Palabras clave: Indígena, Canadá, Gobernanza Tradicional, Territorialidad, Reconocimiento.

Déclarations Affirmatives et Paysages Culturels Autochtones: Soutenir la Gouvernance Autochtone Traditionnelle au Canada grâce au Patrimoine Culturel Immatériel

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RESUME

Cet article analyse les ressources de gouvernance traditionnelles que les paysages culturels autochtones possèdent dans le cadre du patrimoine culturel immatériel (PCI) et comment, de son point de vue, il peut servir de mécanisme stratégique pour soutenir la territorialité et les droits autochtones au Canada. Illustré à travers trois paysages culturels «protégés» comme différents exemples. Cet article explique comment le rôle des styles traditionnels de gouvernance (usages et coutumes) est une mesure sous-jacente qui permet l'affirmation des droits sur la terre et des moyens de subsistance durables, constituant ainsi un élément substantiel d'affirmation du patrimoine culturel autochtone. L'article démontre que l'utilisation ininterrompue de la terre, ainsi que la manière traditionnelle de se gouverner soi-même, est ce qui permet de caractériser les valeurs, les connaissances, les pratiques et les traditions locales, ainsi que les techniques de gestion des terres et se conclut par une discussion qui aborde les politiques pour la reconnaissance de tous ces éléments en tant que patrimoine culturel autochtone authentique.

MOTS CLES: Autochtone; Canada; Gouvernance Coutumière; Territorialité; Reconnaissance.

Durchsetzung von Erklärungen und Indigenen Kulturlandschaften: Unterstützung der Indigenen Gewohnheitsregierung in Kanada durch Immaterielles Kulturerbe

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Zusammenfassung

Dieser Artikel beschreibt die traditionelle Ressourcenverwaltung in indigenen Kulturlandschaften erörtert. Durch die Anwendung des Rahmens des immateriellen Kulturerbes in diesem Kontext wird erläutert, wie es als Mechanismus zur Unterstützung der Territorialität und der Rechte der Ureinwohner in Kanada dienen kann. Anhand von Beispielen für drei Kulturlandschaften, die unterschiedlich „geschützt“ sind, wird in diesem Papier erläutert, wie die übliche Regierungsführung, ein Element des indigenen Kulturerbes, die zugrunde liegende Maßnahme zur Durchsetzung von Landrechten und nachhaltigen Lebensgrundlagen ist. Der Artikel zeigt, dass fortgesetzte Landnutzung und übliche Regierungsführung die lokale Werte, Kenntnisse, Praktiken und Traditionen sowie Landbewirtschaftung stechniken charakterisieren und schließt mit einer Diskussion über die Politik der Anerkennung dieser Elemente des indigenen Kulturerbes.

SCHLÜSSELWÖRTER: Aborigines; Kanada; Übliche Regierungsführung; Territorialität; Anerkennung.

Affermazione di Dichiarazioni e Paesaggi Culturali Indigeni: Sostenere il Governo Consuetudinario Indigeno in Canada Attraverso il Patrimonio Culturale Immateriale

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Sommario

Questo articolo discute la tradizionale governance delle risorse sui paesaggi culturali indigeni. L'applicazione del quadro del patrimonio culturale immateriale in questo contesto elaborerà il modo in cui può fungere da meccanismo per sostenere la territorialità e i diritti degli indigeni in Canada. Illustrato attraverso esempi di tre paesaggi culturali diversamente "protetti", questo documento elabora il modo in cui la governance consuetudinaria, un elemento del patrimonio culturale indigeno, è la misura sottostante utilizzata per affermare i diritti alla terra e mezzi di sussistenza sostenibili. Dimostrando che l'uso continuato del suolo e la governance consuetudinaria caratterizzano i valori, le conoscenze, le pratiche e le tradizioni locali nonché le tecniche di gestione del territorio, l'articolo si conclude con una discussione sulla politica di riconoscimento di questi elementi del patrimonio culturale indigeno.

Parole chiave: Indigeno, Canada, Governo Consuetudinario, Territorialità, Riconoscimento.

Declarações De Afirmação E Paisagens Culturais Indígenas: Apoio À Governança Consuetudinária Indígena No Canadá Por Meio Do Patrimônio Cultural Imaterial

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Resumo

Este artigo discute a governança de recursos tradicionais em paisagens culturais indígenas. A aplicação da estrutura do patrimônio cultural intangível neste contexto irá elaborar como ele pode servir como um mecanismo para apoiar a territorialidade e os direitos indígenas no Canadá. Ilustrado por meio de exemplos de três paisagens culturais diferentemente "protegidas", este artigo discorre sobre como a governança costumeira, um elemento da herança cultural indígena, é a medida subjacente usada para afirmar os direitos à terra e meios de subsistência sustentáveis. Demonstrando que o uso contínuo da terra e a governança consuetudinária caracterizam os valores, conhecimentos, práticas e tradições locais, bem como técnicas de manejo da terra, o artigo conclui com uma discussão sobre a política de reconhecimento desses elementos do patrimônio cultural indígena.

Palavras-chave: Indígena, Canadá, Governança Costumeira, Territorialidade, Reconhecimento.

Asserting Declarations: Supporting Indigenous Customary Governance in Canada Through Intangible Cultural Heritage.

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Introduction

As we discuss the recent changes at the university, the weather, future projects, Yvonne's hands skillfully gather and sew the beads on the moccasins. Her expertise is evident: she has the image in her mind, and without missing a beat she threads each bead carefully and applies it tightly on the front of the moccasin.

Our spouses are walking around the cabin and checking to see what needs to be done first; fixing up the cabin, taking out some old trees and making sure the logging crew did not overstep their boundaries – there is a lot to do. We are sitting near their cabin where earlier that day, we fished a few trout on the lake. Small but delicious, the rainbow-coloured fish will be grilled in tin-foil that evening.

Each of the activities is done naturally: everyone seems to know their place and their responsibilities. During meals and in the evenings, all seem to gather around the wood stove that is located in the center of the cabin.

It serves as a place where stories are exchanged. Everyone is tired but in good spirits from working in the bush all day. Tips are shared, jokes are told. Wisdom is passed on amidst moments of teases. Working together, exchanging adventures – the cabin here is a cultural landscape where local history continues.

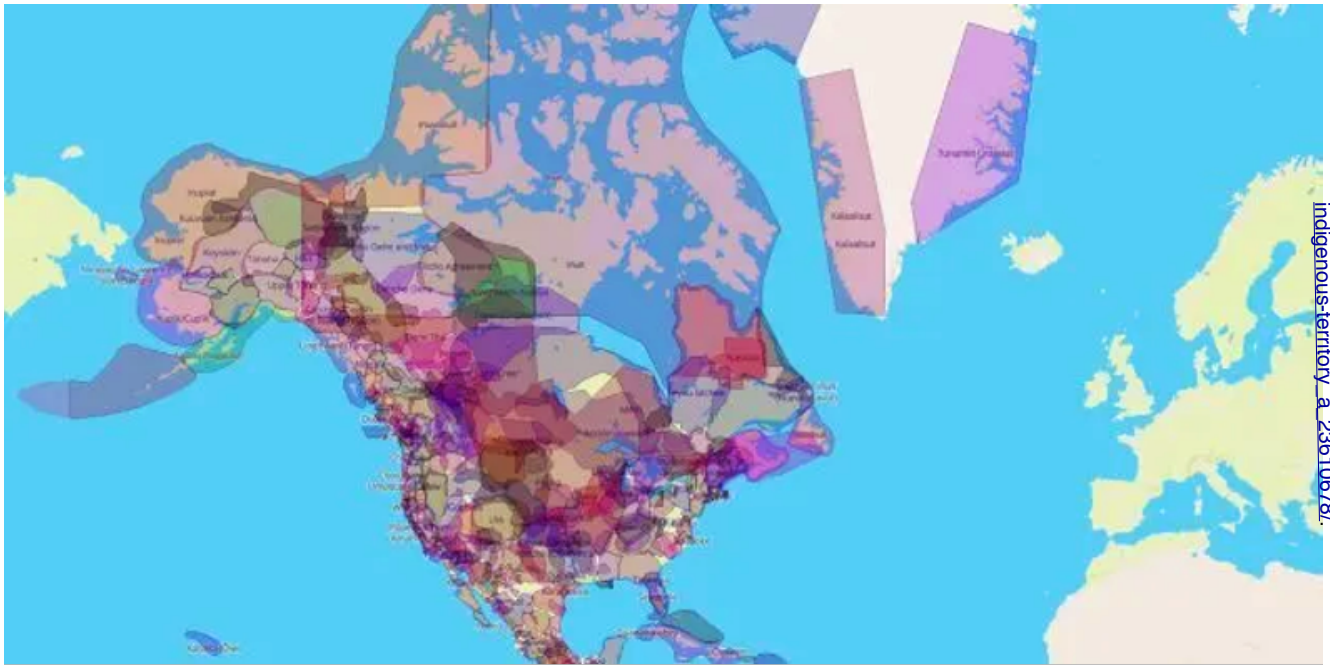
As the conduits of collective memory for current and future generations, Indigenous culture-keepers like Yvonne and her husband Ron are vital to the sustenance and transmission of cultural elements.



As the conduits of collective memory for current and future generations, Indigenous culture-keepers like Yvonne and her husband Ron are vital to the sustenance and transmission of cultural elements. Engaged in land-based activities, in Dakelh ghuni (Carrier language) revitalization, in passing on cultural knowledge of clans and activities such as moose-hide tanning, these Dakelh Elders are the Living Heritage of the Dakelh people. Born out of social interactions, the reproduction of cultural memory and performativity shapes the way Indigenous people experience ancient and contemporary governance. In this frame of reference, customary governance of land-based knowledge-holders and culture-keepers are revealed not only through tangible elements gathered and stored in places, but also by lived experiences that are continually practiced and brought into existence through these 'managed' spaces. Therefore, this paper outlines the key principles and process of three Indigenous customary governance systems as well as illustrates how intangible cultural heritage (ICH) and the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage can serve as a useful tool in not only identifying these systems as central to Indigenous territoriality and cultural heritage revitalization, but also in enlarging Aboriginal rights in Canada. Before we discuss these traditions stewardship systems however, it is important to elaborate on the numerous ways colonialism disrupted them.

Indigenous Cultural Spaces and Colonization

There is immense cultural diversity of Indigenous people in Canada. (Figure 1).



Source: by Victor Temprano/Native-Land.ca , Native Land Screen shot taken from the Huffington Post.ca: https://www.huffingtonpost.ca/2019/01/06/native-land-map-indigenous-territory_a_23610678/.

Figure 1.
Screen shot of traditional Indigenous territories in North America.

The Dakelh are Carrier-speaking people whose traditional territory expands across much of central British Columbia in Western Canada. The Nuu-chah-Nulth are also in the province of British Columbia, but their territory spans across a large portion of Vancouver Island where thick rainforests descend into the vastness of the salty ocean waters.

The Anishinaabeg on the other hand, are an Algonquin-speaking peoples located in the center of Canada, mainly around the Great Lakes and eastern Manitoba. The Anishinaabe cultural landscape encompasses the Canadian shield geomorphology where in-land watersheds reflect unique cultural diets and ceremonies (Pawlowska-Mainville 2020). While the examples of the three Indigenous Nations discussed in this article have as differing cultures, languages, ontologies, and customary governance practices, as Poland is to Morocco, they nevertheless share the numerous similarities embedded in colonial history.

Colonialism in Canada includes dispossessing Indigenous people of their traditional territories, Christianization, forced civilization and assimilation. Policies comprised of the removal in Indigenous children from their homes to be placed in residential and industrial schools as well as in foster care. While the schools offered basic education, hard labour, physical and sexual abuse was common. Laws such as the Pass System (which required government permission to travel on and off one's own territory) were enacted to control Indigenous peoples' movements, and policies regarding fishing, hunting, and trapping were set in place to limit Indigenous harvesting practices.

Settlement, individual property rights, forced enfranchisement, and the promotion of farming as well as government controlled harvesting licenses all contributed to the diminishment of knowledge and land-based performativity. The banning of ceremonies, fishing weirs, and governance systems not only weakened certain practices and beliefs, but also the Western notions of land-use planning and resource 'management and use' all contrasted with the relational and reciprocal relationship Indigenous people had with the land.

Another thing that connects these communities is the Indian Act, a paternalistic Canadian law that governs all matters pertaining to 'Indians'. (Please note that the term 'Indians' originally referred to the original peoples of Canada, however, it is now seen as derogatory and has been replaced with the term 'Indigenous people(s)').

The legislation outlines who legally is an 'Indian' and what rights they have, how local governance should be run, and how to access the land and resources that are 'reserved for Indians'.

These Indians 'reserves' (sometimes also referred as reservations) are areas of land historically reserved for the use of Indians and while they are representations of colonial governance, they now serve as homelands for many Indigenous people.

Due Canada's vast geografía (Figure 2), Indigenous peoples' colonial relationship to the State has also created divergent community needs. Some Indigenous groups have signed a historical treaty of land surrenders and others are in the process of negotiating a modern treaty that will recognize customary governance over traditional territories. The convoluted colonial history in Canada means that communities may have differing priorities ranging from a recognition of historical treaty rights like the right to hunt for food, to acknowledging that land was never surrendered in non-treaty areas and thus Indigenous self-government continues to exist. All these forms of oppression led to significant loss of culture and a rupture in heritage transmission.

Consequently, languages have diminished to the point of being endangered, land-based practices have faded away in many places, family dynamics have been broken, communities fragmented, and cultural knowledge, songs, as well as stories, have disappeared. With their livelihoods impacted, many Indigenous people were forced to depend on government rations and welfare.

Government of Canada/AANDC. https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-TAG/STAGING/texte-text/htoc_1100100032308_eng.pdf

Figure 2.
Historical Treaties of Canada. Map showing the vast geography of the Nation as well as the treaties made with Indigenous people prior to 1975.

While Indigenous peoples' history is one of colonization and oppression, it is also one of resilience. Indigenous people continue to have a storied relationship with their traditional territories that is based in respect, reciprocity and collective responsibility (RCAP 1996). Today, Indigenous groups, communities, and individuals are making an effort at protecting, reviving and [re]constructing their heritages and identities.

Through the Truth and Reconciliation Commission's (TRC) Calls to Action (2015), Canada is striving to reconcile with Indigenous people, working to ensure Indigenous languages, histories, and heritages are protected and included in educational curriculum.

The Calls to Action push for numerous endeavours like settling Indigenous claims to traditional lands and effectively incorporating Indigenous knowledges, and voices, in resource management. While traditional governance is still contrasted with the above-mentioned Indian Act, many Indigenous communities are using the TRC as a platform to revive old practices by merging them with new technologies and science-based monitoring. Resurgence of Indigenous customary governance in Canada signifies that communities are looking inwards to strengthen their self-determination and [re]affirm their territoriality.

Embodying Cultural Heritage Transmission

In spite of the damage, Indigenous people continue to resist colonization by upholding relationships with their territories. Unique customary governance systems are embedded in collective and "lived memory which is held in stories and relationships" (McLeod 2009:1). Indigenous Living Heritage, meaning its Elders, knowledge-holders, storytellers and harvesters are the embodiment of customary governance.

Because they know their history and continue to spend time on the land, Elders and culture-keepers like the family of Yvonne and Ron, who the readers met in the introduction, are viewed by the community as the guardians of traditions and holders of Dakelh intangible cultural heritage elements (Pawlowska-Mainville & Pierreroy 2020). Through their "techniques of the body" (Mauss 1968), activities such as fishing, taking out dead trees, harvesting, rebuilding their summer cabin, tanning moose hides and making moccasins are a natural part of their life. By ensuring the Dakelh language and knowledge survives, these Elders are transmitting collective and narrative memory (Halbwachs 1952/1992; McLeod 2009), illustrating that Living Heritage endures and draws strength from the performativity of a coherent body of people.

Understanding that performativity is "the process in which the terms of collective existence are made, remade and transformed" (Counsell 2009:7, emphasis original), the term helps conceptualize a way to understand collective memory and cultural heritage embedded within customary governance. Recognizing and acting out on collective memory can be helpful in considering how memories are maintained, disseminated and how they can be used to safeguard cultural collective narratives (Taylor 2003; Schechner 2013; Counsell 2009). The physical embodiment of cultural activities as articulated through Bourdieu's habitus (Bourdieu 1977), refers to the performativity of deeply ingrained habits, skills, and dispositions that we possess due to our life experiences.

For Bourdieu, *HABITUS* as the word implies, is that which one has acquired, but which has become durably incorporated in the body in the form of permanent dispositions. Appearing innate, *HABITUS* permits individuals to navigate their social environments; it refers to something historical, linked to individual history, and that it belongs to a genetic mode of thought (Bourdieu 1977; Bourdieu & Wacquant 1992). Culturally developed rather than natural, habitus exists "like a 'fish in water': it does not feel the weight of the water, and it takes the world about itself for granted" (Bourdieu & Wacquant 1992). In that sense, elements of intangible cultural heritage such as diverse customary governance systems anchored to specific cultural landscapes help Indigenous people transmit knowledge of their territories and the practices performed on them, to future generations.

The moment a trapper Abel Bruce from Asatiwisipe First Nation puts down tobacco as an offering– like he always does - his younger helper Willie will also perform the practice when harvesting; the instant John Mainville, an Anishinaabe from Couchiching First Nation puts down a spirit plate to 'feed' his deceased father, his daughter will continue to transmit this relational activity to her children as well. Both actions are performed 'as they have always been done' because the parents of these two Indigenous men taught them the practice. In that sense, individual agency to sustain and transmit such cultural practices is also a component of the collectivity of intangible cultural heritage.

In On Collective Memory, Maurice Halbwachs (1952/1992:48) writes that the old are the keepers of cultural traditions "not just because they absorbed them at an earlier point than others, but also undoubtedly because they are the only ones to enjoy the necessary leisure to determine the details of these traditions in their exchanges with other people and to teach them to the young". In Indigenous communities, Elders are important for their symbolic connection to culture, to the past, and to the knowledge that will inform the future.

They are recognized for their intellectual traditions: teachings, stories, wisdom, and ceremonies that are founded on orality (Royal Commission on Aboriginal Peoples 1993, volume 4). Many Indigenous stories tell us about the creation of life but the teachings in those stories also teach us how life is sustained and how important good relationships with the natural world and the Other-than-Human world, are.

For example, for the Iroquois, "the earth is considered to be a great living being – the Great Turtle and all living things ride her back" (Cajete, 2000:151) (Figure 3).

Katalinks/Dreamstime found on the Canadian Encyclopedia.https://www.thecanadianencyclopedia.ca/en/

Figure 3. An artistic interpretation of an island – North America- growing on a turtle's back is part of some Indigenous Creation Stories. Source

In the Haudenosaunee story, Sky Woman falls to the ocean and the birds help her to land on the turtle so she could float until together their bodies formed the land (Watts 2013). And, in the Anishinaabe story, the wazhashk (muskrat), dives deep under the water to bring soil to the surface so that land can be formed (Pawlowska-Mainville, n.d.).

There is also the W̱ SÁNEĆ story of Raven capturing the sun so the people could have light (Turner, 2005). It is from these place-based stories that teachings about how to relate to one another and to the resources that the earth provides, flow (Turner, 2005; McGregor, 2004). It is such stories of animals helping humans that inform the way Indigenous people govern their territories and do environmental stewardship.

Oral traditions are a predominant form of knowledge transfer among Indigenous peoples and thus, a collective enterprise. Oral tradition, writes Donald Fixico (2017: 24-25),

> "is the connecting force among a people. On a daily basis, stories are told linking people to the past […] From a Native perspective, American Indian history is a collective of tribal histories based on oral traditions".

Because in the oral tradition no one person can claim ownership and authority over a story or oral history, the basis for this collective enterprise is a dialogical process whose details may be changed but where the message remains the same (Fixico 2017; Eigenbrod and Hulan 2008).

In Cree Narrative Memory (2009) however, Neil McLeod acknowledges the challenge in cultivating Cree wisdom in the age of information. While attempts at cultural transmission are made, numerous Elders too, have expressed grief at the knowledge gap among the younger generations. Consequently, on-going efforts of Elders to preserve and revive collective memory are simultaneously tied to the efforts of the young at ensuring Indigenous lands are protected.

For Indigenous ICH to survive, Indigenous lands must be in the hands of Indigenous people. Without a doubt, many of Indigenous peoples' intangible cultural heritages are grounded in territory, and customary governance can only exist if there is land and resources to govern. As Henderson (2002:45) wrote,

> Our ecological surroundings are important because we derive our
> shared worldviews, languages and teachings from them…
> Our worldview is not an act of imagination, but a series of teachings
> about a particular place and about the proper way to relate
> to a whole and irrevocable ecosystem.

Similarly, Watts (2013: 21) wrote of Haudenosaunee and Anishnaabe worldviews,

> "Place-Thought is based upon the premise that land is alive and thinking and that humans and non-humans derive agency through the extensions of these thoughts".

From an understanding of the land as a reciprocal being, there becomes no separation between the well-being of the land and the well-being of the people. It is precisely that territoriality which guides ICH transmission through the ephemeral, or collective memory, as well as through habitus, or the physical technique of the body.

Centered on land-based practices as well as their corresponding gestures of relating to the land, Indigenous performativity can be interpreted as a cultural system of embodied dispositions arising from collective memory and own cultural epistemologies that permit local people to understand their world and to relate to it. Indigenous relationships with the land extend beyond the physical to encompass the emotional, mental and spiritual needs of Indigenous peoples. Cultural land-use exists because of the social structures that built it; oral tradition is the guiding force behind Indigenous practices.

Performativity across the land renders cultural acts constructive: it is the body carrying out activities such as trapping, hunting, fishing, building cabins, sharing stories, eating together –those every-day theatrics – that enable the understanding that the body is a tool of cultural and memory's transmission.

Because many land-based communities are dependent on their 'backyard' for cultural activities and livelihoods, and with Elders and knowledge-holders (including language speakers) disappearing, it is critical that elements of intangible cultural heritage are transmitted. Effective mechanisms fostering cultural identity while also protecting ancestral territories, is crucial for many Indigenous people.

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Consequently, the 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage can be a fruitful tool in aiding Indigenous people in developing mechanisms for safeguarding their heritages, including land-based practices.

Because the Convention emphasizes the idea of Living Heritage and of performativity, it moves beyond the notion that culture exists through solely through the material. In Canada, 'artifacts' of the 'vanishing Indian' akin to tools, clothing, structures, and ornaments, are still overwhelmingly found in museums and school displays.

Accordingly, ratifying the UNESCO Convention (which Canada has not done so as of 2020) would be one way to respond to the Truth and Reconciliation's Calls to Action and to support Indigenous customary governance resurgence. Both, the Convention and the Calls to Action together can serve as the best mechanisms to safeguard culture-specific elements of Indigenous intangible cultural heritage as they lay the groundwork for Indigenous people to self-determine their own measures at cultural protection.

As the biggest stakeholders, it is a matter of Indigenous peoples' survival to protect their cultural heritages; as rights-holders, it is Indigenous peoples' own cultural stewardship efforts that will best ensure environmental conservation of traditional lands and resources.

Therefore, legitimization of Indigenous customary governance over natural resources in Canada can be supported by effective intangible cultural heritage policy.

Many of the stewardship practices on traditional territories are embedded within the protocols surrounding hunting, fishing, trapping and foraging. Many exist '*in the moment*' they are occurring such as when permission is asked when crossing through another person's trapline, or when an animal is killed, butchered and then distributed properly to other members of the community (Pawlowska-Mainville 2020).

Intangible cultural heritage can be a fruitful tool in affirming that the names of places and waters, traditional routes, ceremonial sites, old burial grounds and blueberry picking sites are evidence of land-use and traditional governance. While some First Nations may sing a welcome song to the trapline, others may drum a prayer; some members may simply respect the holders of the traplines and not harvest anything from the land he or she may be on.

These elements of cultural heritage are most often unwritten and informal but indicative of cultural governance system tied to a landscape.

Heshookish Tsawalk:
Tribal Parks and Indigenous Community Conserved Areas (ICCAs)

Located on Vancouver Island, the Nuu-chah-nulth, meaning '*peoples/humans all along the mountains and sea*', are Indigenous peoples of the Pacific Northwest Coast of Canada (Fig. 4).

The territory spans much of what is now Vancouver Island, covering more than 300 kilometers of territory on the Pacific Ocean. Source: Native Land. https://native-land.ca/maps/territories/nuu-chah-nulth-tribal-council/

Figure 4.
Map illustrating the numerous communities on Nuu-Chah-Nulth

There are fourteen communities located on their ancestral lands. Based on concept of heshookish tsawalk meaning 'everything is one and interconnected' The Nuu-chah-nulth have taken a proactive way of protecting their land under Indigenous leadership (Atleo 2005; Atleo 2010; Tribal Parks Gathering 2016). The concept of hishookish tsawalk offers an alternative stance from which to view the planning and management of natural areas, especially in the context of Indigenous peoples.

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The concept of hishookish tsawalk offers an alternative stance from which to view the planning and management of natural areas, especially in the context of Indigenous peoples. Because it assumes the unity of people and the natural world in which they live, hishookish tsawalk represents a contemporary intellectual approach to creating sustainable livelihoods while also protecting the environment. The concept enables economic certainty and environmental stewardship as well as represents ecosystem protection in conjunction with the assertion of Aboriginal rights and title in Canada.

Hishookish tsawalk exists as the guiding principle of customary governance and the Tribal Parks land designation. Since the 1980s, Tribal Parks have been declared by the Nuu-chah-nulth based on the idea that knowledge is embedded on the land, much like the reliance of people on the resources for livelihood.

Wah-nuh-jus Hilth-hoo-is (Meares Island), near Tofino in Clayoquot Sound was declared a Tribal Park in 1984 as a response to proposed clear cut logging (Figure 5). Serving notice that Nuu-chah-nulth lands and resources should be respected during the logging protests, the Elders have stood on the island and said to the loggers:

> "You are welcome to come ashore and join us for a meal, but you have to leave your chainsaws in your boats. This is not a tree farm – this is Wah-nah-jus Hilth-hoo-is, this is our Garden, this is a Tribal Park"
> (*quoted in Ha-Ahilth-Sa 2017; Tribal Parks Conference 2016*).

Putting this intellectual theory into practice, the Nuu-chah-Nulth have also established the Ha'uukmin and Tla-o-qui-aht Tribal Park within their Indigenous Watershed Management Areas. Inspiring other Indigenous communities in the province of British Columbia, numerous other Tribal Parks been declared since then.

The concept of Tribal Parks is significant because nearly the entirety of this province was never surrendered by Indigenous people and much of it is currently under land-claims. Land claims in Canada are characterized as legal pursuit of ancestral or disputed territories by Indigenous people. Determined to protect traditional territories while also maintaining continuous assertion of Indigenous sovereignty and law, Tribal Parks enable Aboriginal people to take on the leading role in stewardship of protected areas on own lands.

The Nuu-chah-Nulth have taken this initiative further by placing Tribal Parks under an international framework identified as Indigenous Peoples' and Community Conserved Territories and Areas (ICCAs).

ICCAs are a series of ecosystems across the globe conserved by indigenous and local communities through customary laws. These protected areas are supported by the International Union for the Conservation of Nature and other United Nations programmes to ensure biodiversity and ecological services, to warrant cultural and economic livelihoods, and to resist destruction and deterioration from development and other forces (ICCA consortium 2020).

Ensuring that community members have green and culturally appropriate housing, renewable energy solutions and economic certainty, these parks represent a viable way for the continuity of Nuu-chah-Nulth cultural heritage elements, including the concept of hishook-ish tsawalk.

The island is looked after by local people. Source: A. Pawlowska-Mainville 2016.

Figure 5.
A view of Meares Island, Nuu-chah-Nulth land, that was protected from logging in 1984.

It is important to recognize however, that although hishook-ish tsawalk lives through Tribal Parks, the concept is independent of this initiative as it exists within the Nuu-chah-Nulth cultural worldview. As a form of intangible cultural heritage, hishook-ish tsawalk is an epistemology as well as a guiding principle which, through Tribal Parks, can be articulated to the world through performativity.

Unlike the classic idea of parks where nature is conserved and humans are removed to protect natural spaces, Tribal Parks are viewed as mechanisms for sustainable livelihoods and Indigenous land-use. “This land is our garden” the Tla-o-qui-aht then-chief Moses Martin said at the 2016 Tribal Parks Gathering I attended. And as a garden, hishook-ish tsawalk: because the land provides salmon, trees, air, clean water, etc, the people in turn have responsibility to care for the land.

It is through each Indigenous community’s idea of reciprocity and of local values that assessment and monitoring is done in the different Tribal Parks in British Columbia. Within these territories, local people look after their own lands by means of direct control over what happens to the land and the resources. Monitoring and evaluation ranges from use of GIS software or explicit databases to relying on new technologies such as drones and DNA sampling (Qqus 2020).

Some communities have put in place carbon emission credits for those using their lands and watersheds, and many have created or are in the process of creating own ‘conservation officers’, who go out to keep an eye on, take notes, report and communicate all aspects across their watersheds to the community.

A number of groups have turned to international organizations to lobby against trophy bear hunting or logging. Collaborating with each other through Tribal Parks Gatherings allows community members to exchange information and innovative ways to monitor their natural resources and create capacity-building for members. In ever case, creation of or revival of local values and traditional laws are encouraged.

Through Tribal Parks therefore, the concept of hishook-ish tsawalk represents a space where the environment is not external to being. Hishook-ish tsawalk reflects a uniquely Nuu-chah-Nulth cultural landscape where Indigenous people live, work and anchor their stories and cultures to. In that sense, building on the teachings and values gained from Elders and family members, performativity of hishook-ish tsawalk signifies heritage transmission and complements Nuu-chah-nulth ‘eco’ (meaning ‘home’ in greek): ecology and economics.

Ji-ganawendaman Gidakiminaan : Pimachiowin Aki UNESCO World Heritage Site

Another community relying on customary governance to ensure permanent protection over their traditional territory are the Anishinaabeg of Asatiwisipe (Poplar River). The Elders of Poplar River First Nation have stated that “the Creator has given us life, he has given us land to live from. Without that land our people will die” (Asatiwisipe Aki Management Plan 2011). This Northern Manitoba Indigenous community has taken charge of its future by creating its own plans to develop economically, yet nonetheless maintain ecological sustainability. In 2007, they have included their ancestral trap-line territory as part of the Pimachiowin Aki UNESCO World Heritage Site nomination (Figure 6). Designated as a World Heritage Site in 2019, Pimachiowin Aki (“the land that gives life” in Ojibwe) is an Indigenous-led initiative whose main purpose is to ensure local people can live, trap, fish and hunt as well as maintain their traditions. A collaboration of neighbouring Anishinaabeg communities, this archaic boreal forest is not only an example of cultural and natural wealth, but the designated will assist community members with meeting local needs.

Source: the Canadian Encyclopedia and curtesy of Pimachiowin Aki Corp. https://www.thecanadianencyclopedia.ca/en/article/pimachiowin-aki.

Figure 6.
Map of Pimachiowin Aki World Heritage Site with the traditional territory of the Poplar RIver community located in the top upper lever of the nomination.

For Poplar River, “development” refers to an ecologically sustainable vision of community-controlled economic and political development; in effect a preventative strike against the non-renewable resource exploitation sector. The goal is to protect the land from industrial developments, sustaining natural ecological processes for present and future generations so that resource use and access by community members can be managed according to local values and knowledge. This initiative also signifies a reconceptualization of financially-viable options such as eco-tourism, wild-rice harvesting, and non-timber forest products allocation, which represent few of the examples of sustainable economic development that this community can investigate on their cultural landscape.

The fundamental Anishinaabe tradition guiding stewardship of the Pimachiowin Aki World Heritage Site is ji-ganawendaman Gidakiminaan, ‘keeping the land’. Ji-ganawendamang Gidakiiminaan serves as a cultural system of specific performativity over the land and is understood to be a “set of beliefs, values, knowledges and practices that guide the relationship with the land and all life on the land that was placed by the Creator” (Pimachiowin Aki WHN 2016: vi). The term serves as an epistemological approach to land and resource stewardship for local communities.

A foundation through which local people view caring for the land as a “sacred trust” (Pimachiowin Aki WHN 2016: vii), ji-ganawendamang Gidakiiminaan is a cultural tradition with tangible manifestation in harvesting sites, habitation and processing sites, traplines, travel routes, named places, ceremonial sites, and sacred places such as pictographs associated with powerful spirit beings.

These attributes are dispersed widely across a large landscape and concentrated along waterways, which are an essential source of livelihood resources and a means of transportation. Anishinaabe customary governance and oral traditions ensure continuity of the cultural tradition across generations (Pimachiowin Aki WHN 2016: vi) Because ji-ganawendamang Gidakiiminaan is a combination of knowledge, ecological wisdom, as well as practices, rituals and cosmologies concerning nature and the universe, it serves as an overarching building block of other intangible cultural heritage elements.

Undoubtedly, the traditional territory is managed through the local kinship-based trapline system where the boundaries are partitioned by geographical landmarks and where each head trapper intimately knows his area. Integrated into the provincial Registered Trapline System, ji-ganawendamang Gidakiiminaan roots local harvesters to their place through oral stories and through the notion of *HABITUS.*

As has been the case for generations, each trapline holder monitors the wildlife, assesses the limits on the furbearers taken, and considers others when hunting large game. Many Elders also insisted on the importance of showing respect and reciprocity towards Other-than-human beings by putting down a gift of asemaa (tobacco): I take from the land, I give something back.

In Poplar River, the Asatiwisipe Aki Management Plan (2011) is the community's land-use plan which, through the Province of Manitoba's East Side Traditional Lands Planning and Special Protected Areas Act (2012), ensures protection over Poplar River's community conserved area. Created as a support measure for Indigenous communities hoping to protect their lands, the Act is the first of its kind in Canadá. Providing a meaningful and culturally respectful opportunity for Indigenous people to engage in social and economic development, the The East Side Traditional Lands Planning and Special Protected Areas Act also helped pave the way for recognition of ji-ganawendamang Gidakiiminaan (Figure 7).

Source: Global News/The Canadian Press and Pimachiowin Aki Corp. July 1, 2018. Supplied / H. Otake https://globalnews.ca/news/4307396/pimachiowin-aki-boreal-forest-officially-a-world-heritage-site/.

Figure 7.
A community camp at Weaver Lake in Poplar River traditional territory in the Pimachiowin Aki boreal forest region.

This is done by supporting Indigenous customary governance through the recognition of its written counterparts, namely, their land-use plans.

The Province of Manitoba "support[s] continuity of Anishinaabe customary stewardship practices in ways that provide a range of livelihood benefits for First Nation members, and provide[s] a context for the reaffirmation and transmission of customary teachings" (Pimachiowin Aki WHSN 2012:116). The legislation acknowledges each land-use plan to be under the "direct responsibility" (WHSN 2012: 8) of the respective community, signifying that each Pimachiowin Aki community's management plan has legal standing.

The Pimachiowin Aki UNESCO designation is unique because the site is governed not by federal or provincial administration, but by Pimachiowin Aki members. In other words, the lands that make up the proposed World Heritage Site, specifically those of Indigenous communities, are managed in accordance with whatever customary governance protocols these communities have. This approach is the opposite of previous provincial planning initiatives whereby development or State-driven enterprises drove the planning process.

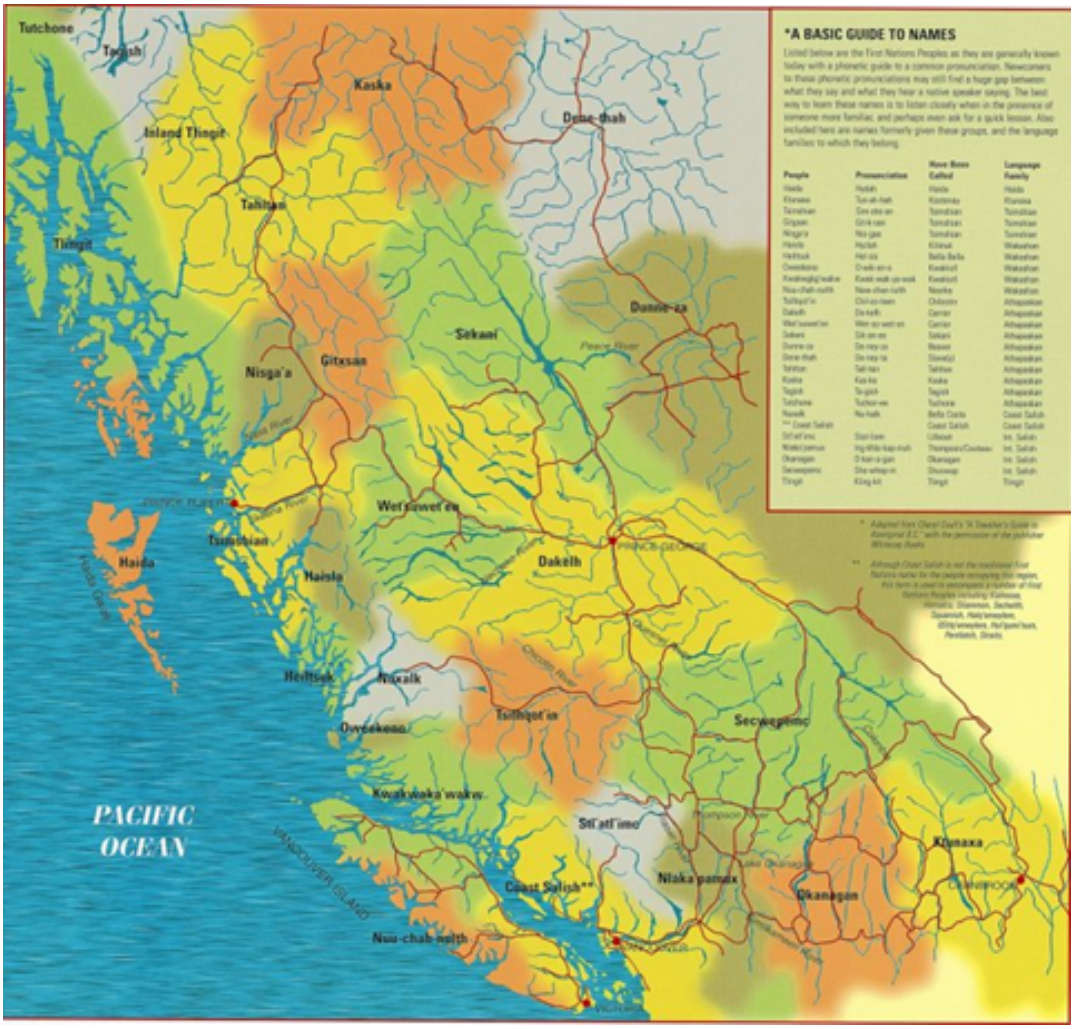
Since Anishinaabe customary governance ensures collaborative use of the land between neighbouring communities, this form of governance has been maintained across generations through vibrant oral traditions consisting of legends, stories and songs. As a cultural tradition ji-ganawendamang Gidakiiminaan expresses honouring the Creator's gift of land and the resources through appropriate use, observing respectful behaviour towards all beings and respect (Pimachiowin Aki WHSN 2015). This adaptive set of socio-cultural relations is so comprehensive, it guides performativity of community members on traditional lands. As such, ji-ganawendamang Gidakiiminaan is fundamentally a way of life.

Bahlats and the Keyohs: Respecting Dakelh Governance

The Dakelh are a Carrier-speaking Indigenous group located in Central British Columbia (Figure 8). Keyohs (traditional family territories) are the source of identity for the Dakelh and the names of Dakelh communities are derived from the watersheds including the Lheidli T'enneh who are the 'people of the confluence of the two rivers', where the Fraser and the Nechako rivers meet.
These place names demonstrate the deep relationship between the Dakelh and their keyohs and where clan names, symbolized through animals, illustrate the bond people have with other forms of life (Brown 2002).

The Dakelh express their vision to the land through management that is “guided by the philosophy that we are part of the land. Our living and our lives come out of the land. The land is part of our family and we are part of d we are part of the land” (CSTC 2006: 11).

This vision is exemplified in Dakelh epistemology and practices of using, managing and sustaining the land. For example, Hereditary Chiefs are responsible for monitoring the salmon runs and ensuring enough salmon make it up-river to spawn (Brown 2002). The Hereditary Chiefs also manage access to the keyohs and resources, including whether other clans are permitted access (Fiske & Patrick, 2000). Mills (1994: 143-144) further highlights the relationship between land and governance arguing that looking after the land involves an “extensive range of responsibilities and includes overseeing the burning of the berry patches, regulating how many beaver can be taken from a particular beaver lodge, [and] managing the harvesting of other game”. Dakelh customary governance also exists through legal orders that direct how humans relate to the natural world.



Source: Nativo Land. https://native-land.ca/wp/wp-content/uploads/2018/06/BC_FN_Languages_Map_Large-768x735.jpg

Figure 8.
Dakelh unceded lands are in the center of the province and their territory cover a large portion of the interior, including the City of Prince George.

For example, a Gitksan adaawk (oral history), as told by and Elder in the Delgamuukw v British Columbia (1997) court case hearings, relayed a story about the consequences of playing with trout at Seeley Lake – a supernatural grizzly bear came down from the lake and killed people in the village.

A similar teaching about respecting fish also exists in the Wet'suwet'en oral history that animals must be treated properly or they will go away or cause harm to the people such as in the story of the salmon leaving after a boy played with their bones by making them into a necklace (Mills 1994).

While numerous Dakelh communities vary in dialect and political economies, they are a cultural group whose system of governance is based on the potlatch or Bahlats. The Bahlats are integral to a governing structure of west-coast First Nations and encompass numerous formal procedures, hence are a key element of intangible cultural heritages of this region. As ceremonies that focus on the redistribution of wealth, the conferring of status upon individuals and clans, funerals, and the establishment of names and rights to hunting and fishing keyohs, the Bahlats are a governance system of gift-giving based on laws that depend on respectful relations with the communities and the keyohs (Canadian Encyclopedia 2020; Yvonne Pierreroy personal communication 2019).

As part of a policy of assimilation, Bahlats (potlatches) were banned by the federal government from 1884 until 1951. Due to this colonial disruption, the hereditary system of governance present through the Bahlats exists in conflict with the Indian Act-imposed band system that some communities live by. The presence of the two systems has created internal conflicts and caused interference in social relations. While some communities have reconciled their keyoh systems with provincial trapline structures, others argue that Indigenous territoriality can be based solely on customary governance.

For example, the Maiyoo Keyoh Society is a hereditary group of Indigenous people who believe that Dakelh traditions and Indigenous land laws (Aboriginal title) as affirmed through Canada's Constitution Act of 1982, is held not at a community level, but by each keyoh individually, through smaller collectives or groups (Maiyoo Keyoh 2020). The group recognizes that their claims and statutory creations overlap with some of our membership. But Indian Act bands, like Nak'azdli are not the historic governance structure and title holders according to our Indigenous laws and customs, nor do they have a mandate to represent us. Only keyohs, such as the Maiyoo Keyoh have the "inherent" right to self-government (Maiyoo Keyoh 2020).

As a long-standing hereditary community and based on a strong attachment to the land and its governance, the Maiyoo Keyoh-holders believe that they have always been and continue to be, the keepers of their Indigenous traditions and customary gobernanza. In spite of the internal conflicts, the continued relevance and recognition of Dakelh governance systems nevertheless affirms Indigenous territoriality and presence on a unique cultural landscape.

The practice of customary governance and laws through the Bahlats still takes place in some Dakelh communities. Although there are differences in various degrees of continuity of this practice, communities still follow their teachings by respecting the advice of Elders and basing their pursuit of Aboriginal rights within collective values (Brown 2002). As an element of Dakelh intangible cultural heritage, customary governance through the Bahlats and the Keyohs reflect the resilience and adaptability of traditional values and strong stewardship practices.

State Recognition

Undoubtedly, State acceptance and acknowledgement of Indigenous customary governance is one of the main criticisms of Indigenous declarations of protected spaces such as ICCAs and Tribal Parks, keyoh systems or own oral-based land-uses.

The International Law and Jurisprudence Report (2012) for example, illustrates the impressive extent of provisions in binding and non-binding international instruments that support the rights of Indigenous and local communities over their territories, areas and resources. International organizations composed of conservation and cultural professionals like the International Union for the Conservation of Nature (IUCN), the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) as well as the International Labour Organization through the C169-Indigenous and Tribal Peoples Convention (1989), all acknowledge the socio-ecological relationship between Indigenous people and their ancestral lands through customary governance (ICCAC 2020; ILO 1989; UNDRIP 2014).

Although recognition is not viewed as a necessary- or even appropriate – by many Indigenous groups working within the realm of Indigenous-protected spaces, it cannot be denied that it is a factor that has significantly helped in the protection of Indigenous lands.

As a consequence, most communities, tend to formalize their customary governance through written plans or by obtaining support from colonial mechanisms, including national parks, conventions, ICCAs, Tribal Parks, and even treaties or land-claims. However, even international mechanisms like UNESCO conventions, the International Union for the Conservation of Natures' initiatives (including ICCAs) and Tribal Parks have yet to obtain 'legal status' within colonial contexts and settler-States (Tribal Parks Gathering 2016).

Very rarely does customary governance have legal status within a colonial context as it fundamentally challenges sovereignty of the State. At present, there are only "some comprehensive agreements [that] allow for voluntary set asides of land for protection by Indigenous People" but these areas are governed according to standards established by Canada (ICCA 2008 quoted in Wilson et al 2012: 11).

This means that while the 'legitimacy' of ICCAs for example, are rooted in the values and meanings they possess for those most directly concerned, they are not officially legislated in Canada.

This is perhaps one of the biggest challenges Indigenous resource management systems face: any First Nation-led initiative– be it the Pimachiowin Aki world heritage site nomination, Tribal Parks, other grassroots measures – often requires lots of public pressure and creative political action. The Maiyoo Keyoh Society for example, is claiming Indigenous title to 22 000 hectares of land under the Dakelh Nak'azdli 'Band jurisdiction' (as prescribed by the Indian Act). The family head 'keyohwhudachun' is a name that is passed on from generation to generation to look after the lands and resources of the Maiyoo Keyoh territory (Maiyoo Keyoh 2020).

Because of conflicting views –the Band has adopted the Indian Act government structure and the Maiyoo Keyoh Society is claiming hereditary title – the Society is going to court to claim inherent Aboriginal title. In this case, a group of Dakelh is raising own funds to seek the help of the State to have their customary governance recognized.

This is to the dismay of some members of the band (Maiyoo Keyoh Society 2020). The Maiyoo Keyoh Society is unique because while many Indigenous people in Canada view institutional recognition as unnecessary to self-determination and to the applicability of Indigenous laws on their own territories (often unceded), the lack of financial support and 'formal' legitimization often renders them to be merely aspirational.

Largely due to unresolved land-claims and Canada's fiduciary duty to Indigenous people and their rights which, when examined through arrangements such as keyohs, Tribal Parks, land-use plans or community conserved areas, would broaden in scope. Ratifying the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage would further augment Indigenous rights as the focus would be on the practices and customs of people on the land rather than just the land itself. closest to the land: the trapline or Keyoh holders, the harvesters, the traditional stewards and the knowledge-holders who transmit culture to younger generations (Figure 9).

Because they are founded on intellectual traditions and contain elements of jurisprudence over resources and own people, customary governance systems signify a level of sovereignty that is unsettling to colonial governments. Nevertheless, a policy of identifying and recognizing –even financially supporting Indigenous ICH – would enable Indigenous people to continue their governance over natural resources by 'investing' in those closest to the land: the trapline or Keyoh holders, the harvesters, the traditional stewards and the knowledge-holders who transmit culture to younger generations (Figure 9).

Source: A. Pawlowska-Mainville 2016

Figure 9.
A group of students are taken to the vast expanse of Dakelh Territory at Tl'az'ten to learn about traditional medicines and smoked trout from a knowledge-holder.

An ICH policy in Canada would not mean recognizing the existence of customary governance; on the contrary, it would mean upholding the different Indigenous communities in their efforts at revitalizing their intangible cultural heritage elements.

Conclusion

As Yvonne, her mother Mildred and I are scraping a moose-hide, we have students from my Introduction to Traditional Ecological Knowledge class helping out. The students are learning from the two elders, listening to their stories, repeating some Dakelh ghuni phases.

Moosehide tanning is a not a common activity in this region of Canada, but Yvonne's family still continues the practice. The moose was harvested from Yvonne's community and the animal meat was shared with members of Nak'azdli. Yvonne's husband smoked some of the meat, turning it into delicious moose jerky that my child would nibble at while she was teething. The class is learning about intangible heritage through transmission.

The Elders and the students chat about Indigenous ICH and I inform them how the moose we are currently tanning reflects customary governance and Indigenous territoriality that is safeguarded through rights, title and knowledge systems embedded in cultural heritage. While their hands glide along the smooth hide, they experience firsthand that collective and corporeal remembering is expressed through performativity (Figure 10).

Source: A. Pawlowska-Mainville, 2016.

Figure 10.
Youth are learning the moose-hide tanning process as per the Dakelh techniques carried by practitioners like Yvonne Pierreroy and her mother Mildred Martin.

Although it is up to each Indigenous community to determine the type of cultural heritage element to sustain, it is up to Canada to work towards reconciliation by allowing Indigenous people the space to carry out their work and to support customary laws that bright forth revitalization of ICH. As such, the 2003 Convention for the Safeguarding of Intangible Cultural Heritage can serve to identify and protect cultural heritages of Indigenous peoples.

The notion of ICH and Living Heritage can effectively become instruments for mobilization of cultural heritage policies in Canada as it permits the reconciliation innate bush skills with formal education, and linguistic competencies with years of determination at keeping an Indigenous language alive.

Living Heritage that is embodied through habitus and performed on the land can be effectively merged with material heritage that is stored alongside books and museums artifacts. Historical (and on-going) Western dominance over Indigenous lands has led to emergencies of climate effects and ecosystem collapse, hence customary governance offers ways not only at reconciliation between Indigenous territoriality and Canada's sovereignty, but also to finding alternative solutions for environmental issues.

Customary governance represents more than title to land; they characterize Indigenous spaces, including the land and resources within a traditional territory as places governed by local peoples.

Declarations of stewardship parallel Indigenous/Aboriginal rights and title in British Columbia as well as the view that Indigenous people have the ultimate decision-making authority within their ancestral territories.

Hishook-ish tsawalk, an element of Nuu-chah-nulth intangible cultural heritage affirms Nuu-chah-nulth territoriality and customary governance; the cultural custom Ji-ganawendamang Gidakiiminaan is informed by traditional teachings and thus incorporates sustainable economics into Indigenous self-determination, representing a template for the articulation of own stewardship systems.

Likewise, Dakelh lands and watersheds within the Keyohs are often run according to the Bahlats and it is within Dakelh inherent rights and jurisprudence therefore to make decisions regarding the use, zoning and any other activities on their traditional territories.

Outside support and tools are needed for communities to maintain elements of their cultures – skills, practices, language, knowledge, essentially HABITUS, or they may die or fall into cultural uniformity of the modern age.

To support the diversity of Indigenous peoples' intangible cultural heritage, there needs to be greater equity in natural and cultural decision-making processes so that customary governance be provided its rightful place - in a true government to government relationship.

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